

109TH CONGRESS
2D SESSION

S. 2781

To amend the Federal Water Pollution Control Act to enhance the security of wastewater treatment works.

IN THE SENATE OF THE UNITED STATES

MAY 10, 2006

Mr. INHOFE (for himself, Mr. CHAFEE, and Ms. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Federal Water Pollution Control Act to enhance the security of wastewater treatment works.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Wastewater Treatment
5 Works Security Act of 2006”.

6 **SEC. 2. WASTEWATER TREATMENT WORKS SECURITY.**

7 Title II of the Federal Water Pollution Control Act
8 (33 U.S.C. 1281 et seq.) is amended by adding at the end
9 the following:

1 **“SEC. 222. WASTEWATER TREATMENT WORKS SECURITY.**

2 “(a) DEFINITIONS.—In this section:

3 “(1) DISRUPTION OF SERVICE EVENT.—The
4 term ‘disruption of service event’ means a natural
5 disaster or event, or a terrorist attack or other in-
6 tentional act, that—

7 “(A) substantially disrupts the ability of a
8 treatment works to provide safe and reliable—

9 “(i) conveyance and treatment of
10 wastewater;

11 “(ii) disposal of effluent; or

12 “(iii) storage of any potentially haz-
13 ardous chemical used to treat wastewater;

14 “(B) damages critical infrastructure asso-
15 ciated with a treatment works;

16 “(C) has a substantial adverse effect on
17 the environment as a result of harm caused to
18 a treatment works; or

19 “(D) otherwise poses a significant threat
20 to public health or safety as a result of harm
21 caused to a treatment works.

22 “(2) EMERGENCY RESPONSE PLAN.—

23 “(A) IN GENERAL.—The term ‘emergency
24 response plan’ means a plan or set of plans de-
25 veloped by or in cooperation with a treatment
26 works that may include the procedures the

1 treatment works will use when a disruption of
2 service event occurs, including procedures for
3 ensuring continued service and protection of the
4 public health and environment.

5 “(B) INCLUSIONS.—The term ‘emergency
6 response plan’ includes a plan or set of plans
7 that may describe, for a case in which a disrup-
8 tion of service event occurs—

9 “(i) the means by which a publicly
10 owned treatment works will provide infor-
11 mation regarding risks to—

12 “(I) the media;

13 “(II) municipal emergency per-
14 sonnel;

15 “(III) health officials;

16 “(IV) the general public;

17 “(V) Federal and State environ-
18 mental authorities; and

19 “(VI) other potentially impacted
20 water utilities;

21 “(ii) the means by which a publicly
22 owned treatment works will limit contami-
23 nation of public water supplies, including
24 temporary treatment and other mitigation
25 measures;

“(iii) the means by which a publicly owned treatment works will address contaminants entering the treatment works or its collection system, including any contaminants added by emergency response personnel in responding to a natural disaster or terrorist event;

“(iv) the means by which a publicly owned treatment works will secure backup generation if a loss of power accompanies the disruption of service event; or

“(v) any additional means of collecting or treating wastewater.

“(C) CERTAIN OTHER PLANS.—The term ‘emergency response plan’ may include—

“(i) an emergency response plan conducted in accordance with a Federal statute that addresses each element identified under subparagraphs (A) and (B); and

“(ii) an emergency response plan in existence on the date of enactment of this section that is modified to include each element identified under subparagraphs (A) and (B).

“(3) VULNERABILITY ASSESSMENT.—

1 “(A) IN GENERAL.—The term ‘vulner-
 2 ability assessment’ means an assessment of the
 3 vulnerability of a treatment works to a disrup-
 4 tion of service event.

5 “(B) INCLUSIONS.—The term ‘vulner-
 6 ability assessment’ may include—

7 “(i) a characterization of the treat-
 8 ment works, including, with respect to the
 9 treatment works—

10 “(I) mission and objective;

11 “(II) customer base;

12 “(III) the facilities that comprise
 13 the treatment works, including—

14 “(aa) the collection system;

15 “(bb) the pumping station;

16 “(cc) the power supply;

17 “(dd) electronic and com-
 18 puter systems; and

19 “(ee) chemical containers;

20 “(IV) processes; and

21 “(V) assets for achieving treat-
 22 ment works objectives;

23 “(ii) an identification and
 24 prioritization of adverse consequences to
 25 avoid at the treatment works, including—

1 “(I) substantial disruptions of
2 service;

3 “(II) economic impacts;

4 “(III) loss of life; and

5 “(IV) negative health con-
6 sequences for staff at the treatment
7 works;

8 “(iii) an identification of adverse con-
9 sequences to the public health and safety
10 and the environment and natural re-
11 sources;

12 “(iv) a determination of critical assets
13 of the treatment works that may be subject
14 to a disruption of service event, includ-
15 ing—

16 “(I) pumping stations;

17 “(II) power sources;

18 “(III) electronic and computer
19 systems; and

20 “(IV) disinfection processes;

21 “(v) an assessment of—

22 “(I) the qualitative probability of
23 a disruption of service event; and

1 “(II) whether the disruption of
 2 service event is the result of a natural
 3 or an intentional occurrence;

4 “(vi) an evaluation of existing coun-
 5 termeasures relating to the treatment
 6 works; and

7 “(vii) an analysis of current risk relat-
 8 ing to the treatment works and the devel-
 9 opment of a prioritized plan for risk reduc-
 10 tion at the treatment works.

11 “(b) GRANTS FOR VULNERABILITY ASSESSMENTS
 12 AND SECURITY ENHANCEMENTS.—The Administrator
 13 may provide grants to any State, municipality, intermunic-
 14 ipal or interstate agency, or privately owned utility that
 15 principally treats municipal wastewater—

16 “(1) to conduct a vulnerability assessment of a
 17 publicly owned treatment works;

18 “(2) to implement security enhancements de-
 19 scribed in subsection (c)(1) and other security en-
 20 hancements to reduce vulnerabilities identified in a
 21 vulnerability assessment;

22 “(3) for the development, expansion, or upgrad-
 23 ing of an emergency response plan; and

24 “(4) for the voluntary creation by a State or
 25 network of treatment works of, or voluntary partici-

1 pation by a treatment works in, a mutual aid and
 2 emergency network preparedness agreement devel-
 3 oped in accordance with the National Incident Man-
 4 agement System established pursuant to presidential
 5 directive number 5 of the Department of Homeland
 6 Security.

7 “(c) GRANTS FOR SECURITY ENHANCEMENTS.—

8 “(1) PREAPPROVED SECURITY ENHANCE-
 9 MENTS.—Except as provided in paragraph (3), on
 10 certification by a State, municipality, intermunicipal
 11 or interstate agency, or privately owned utility that
 12 principally treats municipal wastewater that a vul-
 13 nerability assessment has been completed for a
 14 treatment works, and that the security enhancement
 15 for which assistance is sought is for the purpose of
 16 reducing vulnerabilities of the treatment works iden-
 17 tified in the vulnerability assessment, the Adminis-
 18 trator may provide grants to the State, municipality,
 19 intermunicipal or interstate agency, or privately
 20 owned utility under subsection (b)(2) for 1 or more
 21 of the uses described in paragraph (2).

22 “(2) USES OF GRANT FUNDS.—The uses re-
 23 ferred to in paragraph (1) are—

24 “(A) the purchase and installation of
 25 equipment for materials and activities relating

1 to access control, intrusion prevention and
2 delay, and detection of intruders and hazardous
3 or dangerous substances, including—

4 “(i) barriers, fencing, and gates;

5 “(ii) security lighting and cameras;

6 “(iii) metal grates, wire mesh, and
7 outfall entry barriers;

8 “(iv) securing of manhole covers and
9 fill and vent pipes;

10 “(v) installation and rekeying of doors
11 and locks; and

12 “(vi) smoke, chemical, and explosive
13 mixture detection systems;

14 “(B) the conduct of an activity to improve
15 the security for electronic, computer, or other
16 automated systems and remote security sys-
17 tems, including—

18 “(i) controlling access to those sys-
19 tems;

20 “(ii) intrusion detection and preven-
21 tion; and

22 “(iii) system backup;

23 “(C) participation in a training program,
24 and the purchase of training manuals and guid-
25 ance material, relating to security; and

1 “(D) the conduct of security screening of
2 employees or contractor support services.

3 “(3) ADDITIONAL SECURITY ENHANCE-
4 MENTS.—

5 “(A) GRANTS.—The Administrator may
6 provide a grant under subsection (b) to an ap-
7 plicant for additional security enhancements not
8 specified in paragraph (2).

9 “(B) ELIGIBILITY.—To be eligible for a
10 grant under this subsection, an applicant
11 shall—

12 “(i) submit to the Administrator an
13 application containing a description of the
14 security enhancement; and

15 “(ii) obtain approval of the applica-
16 tion by the Administrator.

17 “(4) LIMITATIONS.—

18 “(A) USE OF FUNDS.—A grant provided
19 under subsection (b) shall not be used for—

20 “(i) payment of personnel costs; or

21 “(ii) operation or maintenance of fa-
22 cilities, equipment, or systems.

23 “(B) DISCLOSURE OF VULNERABILITY AS-
24 SESSMENT.—

1 “(i) IN GENERAL.—Except as pro-
2 vided in clause (ii), as a condition of apply-
3 ing for or receiving a grant under this sub-
4 section, the Administrator may not require
5 an applicant to provide the Administrator
6 with a copy of a vulnerability assessment.

7 “(ii) EXCEPTION.—To ensure compli-
8 ance with any applicable Federal grant re-
9 quirement, the Administrator or a designee
10 of the Administrator—

11 “(I) may request and view a copy
12 of a vulnerability assessment associ-
13 ated with a grant under this section;
14 but

15 “(II) shall not take possession or
16 control of the copy.

17 “(C) RESPONSIBILITY OF ADMINIS-
18 TRATOR.—Not later than December 31, 2006,
19 the Administrator, in consultation with appro-
20 priate Federal law enforcement and intelligence
21 officials, shall incorporate into existing proto-
22 cols for protection of sensitive information a
23 method by which the Administrator will protect
24 from unauthorized disclosure vulnerability as-
25 sessment information viewed by the Adminis-

1 trator or a designee of the Administrator pursu-
2 ant to subparagraph (B)(ii).

3 “(D) PENALTIES.—

4 “(i) IN GENERAL.—Except as pro-
5 vided in clause (ii), any individual who
6 views a vulnerability assessment, a repro-
7 duction of a vulnerability assessment, or
8 any information derived from a vulner-
9 ability assessment, pursuant to subpara-
10 graph (B)(ii) and who knowingly or reck-
11 lessly reveals the vulnerability assessment,
12 reproduction, or information other than to
13 the Administrator or an individual des-
14 ignated by the Administrator, or for use in
15 an administrative or judicial proceeding to
16 impose a penalty for failure to comply with
17 this section, shall, on conviction—

18 “(I) be imprisoned for not more
19 than 1 year or fined in accordance
20 with chapter 227 of title 18, United
21 States Code, as applicable to class A
22 misdemeanors, or both; and

23 “(II) be removed from Federal
24 office or employment.

1 “(ii) EXCEPTION.—Notwithstanding
2 clause (i), a designee of the Administrator
3 who is an officer or employee of the United
4 States may discuss with any State or local
5 government official the contents of a vul-
6 nerability assessment viewed under this
7 paragraph.

8 “(E) EFFECT OF PARAGRAPH.—Nothing
9 in this paragraph authorizes any person to
10 withhold any information from Congress or any
11 committee or subcommittee of Congress.

12 “(5) FALSE CERTIFICATIONS.—An applicant
13 that knowingly submits to the Administrator a false
14 certification or material statement under this sub-
15 section shall be subject to a criminal penalty under
16 section 309(c)(4).

17 “(6) EXEMPTION UNDER FOIA AND RELATED
18 LAWS.—Except for information in a certification
19 under this subsection identifying the system for
20 which the certification is submitted and the date of
21 certification of the system, all information contained
22 in a vulnerability assessment certified by an appli-
23 cant or derived from a vulnerability assessment
24 under this section shall be exempt from the disclo-
25 sure requirements under—

1 “(A) section 552 of title 5, United States
2 Code (commonly known as the ‘Freedom of In-
3 formation Act’); and

4 “(B) any State or local law providing for
5 public access to information.

6 “(d) GRANT AMOUNTS.—

7 “(1) FEDERAL SHARE.—The Federal share of
8 the cost of an activity funded by a grant under sub-
9 section (b) shall not exceed 50 percent, as deter-
10 mined by the Administrator.

11 “(2) MAXIMUM AMOUNT.—The total amount of
12 grants made under subsection (b) for any publicly
13 owned treatment works shall not exceed \$100,000,
14 as determined by the Administrator.

15 “(e) TECHNICAL ASSISTANCE FOR SMALL PUBLICLY
16 OWNED TREATMENT WORKS.—

17 “(1) DEFINITION OF SMALL PUBLICLY OWNED
18 TREATMENT WORKS.—In this subsection, the term
19 ‘small publicly owned treatment works’ means a
20 publicly owned treatment works that services a pop-
21 ulation of fewer than 10,000 individuals.

22 “(2) SECURITY ASSESSMENT AND PLANNING
23 ASSISTANCE.—

24 “(A) IN GENERAL.—The Administrator, in
25 coordination with the States, may provide tech-

1 nical guidance and assistance to small publicly
2 owned treatment works for—

3 “(i) the conduct of a vulnerability as-
4 sessment; and

5 “(ii) the implementation of security
6 enhancements to reduce vulnerabilities
7 identified in a vulnerability assessment.

8 “(B) INCLUSIONS.—Technical guidance
9 and assistance provided under subparagraph
10 (A) may include technical assistance programs,
11 training, and preliminary engineering evalua-
12 tions.

13 “(3) PARTICIPATION BY NONPROFIT ORGANIZA-
14 TIONS.—The Administrator may provide grants to
15 nonprofit organizations to assist in accomplishing
16 the purposes of this subsection.

17 “(f) REFINEMENT OF VULNERABILITY ASSESSMENT
18 METHODOLOGY FOR PUBLICLY OWNED TREATMENT
19 WORKS.—

20 “(1) GRANTS.—The Administrator may provide
21 to nonprofit organizations 1 or more grants to be
22 used in improving vulnerability self-assessment
23 methodologies and tools for publicly owned treat-
24 ment works, including publicly owned treatment

1 works that are part of a combined public wastewater
 2 treatment and water supply system.

3 “(2) ELIGIBLE ACTIVITIES.—A grant provided
 4 under this subsection may be used—

5 “(A) to develop and distribute vulnerability
 6 self-assessment methodology software upgrades;

7 “(B) to improve and enhance critical tech-
 8 nical and user support functions;

9 “(C) to expand libraries of information ad-
 10 dressing threats and countermeasures; and

11 “(D) to implement user training initiatives.

12 “(3) COST.—A service described in paragraph
 13 (2) that is funded by a grant under this subsection
 14 shall be provided at no cost to the recipients of the
 15 service.

16 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
 17 is authorized to be appropriated—

18 “(1) \$200,000,000 for use in making grants
 19 under subsection (b), to remain available until ex-
 20 pended;

21 “(2) \$15,000,000 for use in providing assist-
 22 ance under subsection (e); and

23 “(3) to carry out subsection (f), \$1,000,000 for
 24 each of fiscal years 2006 through 2010.”.

1 **SEC. 3. RESEARCH AND REVIEW OF COLLECTION SYSTEMS**
 2 **AND TREATMENT WORKS.**

3 Title II of the Federal Water Pollution Control Act
 4 (33 U.S.C. 1281 et seq.) (as amended by section 2) is
 5 amended by adding at the end the following:

6 **“SEC. 223. RESEARCH AND REVIEW OF COLLECTION SYS-**
 7 **TEMS AND TREATMENT WORKS.**

8 “(a) DEFINITION OF COLLECTION SYSTEM.—In this
 9 section, the term ‘collection system’ means the under-
 10 ground network of sewers, including sanitary and storm
 11 water collection lines.

12 “(b) RESEARCH AND REVIEW.—The Administrator,
 13 in consultation with appropriate Federal agencies, shall
 14 conduct research and a review, or enter into a contract
 15 or cooperative agreement for the conduct of research and
 16 a review, of—

17 “(1) means of providing alternative processes to
 18 convey, treat, and dispose of wastewater if a disrup-
 19 tion of service event (as defined in section 222) oc-
 20 curs;

21 “(2) the means by which the collection system
 22 of a treatment works could—

23 “(A) be used to convey hazardous chemi-
 24 cals or substances (including explosive devices),
 25 including a comprehensive analysis of the types
 26 of hazardous chemicals, substances, and explo-

1 sive devices that could be placed in the collec-
2 tion system; and

3 “(B) be secured in response to an inten-
4 tional harmful act;

5 “(3) methods for monitoring—

6 “(A) the collection system of a treatment
7 works for hazardous chemicals or substances,
8 including explosive devices; and

9 “(B) unauthorized entry into the collection
10 system of a treatment works; and

11 “(4) treatment technologies, including the af-
12 fordability, effectiveness, and limitations of each
13 treatment technology.

14 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
15 is authorized to be appropriated to carry out this section
16 \$5,000,000 for each of fiscal years 2006 through 2010.”.

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